



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

09/774,682

02/01/2001

Motoshi Asano

SON-2024

3648

23353 7590 08/14/2009  
RADER FISHMAN & GRAUER PLLC  
LION BUILDING  
1233 20TH STREET N.W., SUITE 501  
WASHINGTON, DC 20036

EXAMINER

POINVIL, FRANTZY

ART UNIT

PAPER NUMBER

3696

MAIL DATE

DELIVERY MODE

08/14/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

---

*Ex parte:* MOTOSHI ASANO and MAKOTO YAMADA

---

Application No. 09/774,682  
Technology Center: 3600

---

Mailed: August 14, 2009

---

Before GLORIA HENDERSON, *Review Team Paralegal*  
HENDERSON, *Review Team Paralegal*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on August 10, 2009. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matter(s) requiring attention prior to docketing are identified below.

**EXAMINER'S CONSIDERATION OF REPLY BRIEF**

A review of the file indicates that the appellants filed a timely Reply Brief on March 5, 2009. In accordance with the revision effective September 13, 2004, Title 37, Code of Federal Regulations, §'41.43 states:

(a)(1)... the primary examiner must acknowledge receipt and entry of the reply brief. In addition, the primary examiner may withdraw the final rejection and reopen prosecution or may furnish a supplemental examiner's answer responding to any new issue raised in the reply brief.

**EXAMINER'S CONSIDERATION OF REPLY BRIEF**

On August 4, 2009, a PTOL-901, in the form of a Supplemental Examiner's Answer was mailed in response to a Reply Brief filed on May 22, 2009.

The Communication mailed August 4, 2009 was an improper acknowledgment of the Reply Brief, as it constitutes a Supplemental Examiner's Answer as per MPEP§ 1208, part II. A Supplemental Examiner's Answers requires a Director or designees approval.

**CONCLUSION**

Accordingly, it is

ORDERED that the application is returned to the Examiner to:

- 1) consideration and proper response for the Reply Brief filed March 5, 2009;

- 2) vacate the Communication mailed August 4, 2009;
- 3) generate and mail either:
  - a) a revised Communication properly acknowledging to the Reply Brief dated May 22, 2009, in accordance with MPEP§ 1208, part II.;  
or
  - b) issue a Supplemental Examiner's Answer with the required signature (Technology Center Director or designee), if appropriate;  
and
- 4) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

/GJH/

RADER FISHMAN & GRAUER PLLC  
LION BUILDING  
1233 20<sup>TH</sup> STREET N.W., SUITE 501  
WASHINGTON, DC 20036